REMARKS

In the requirement for restriction, Applicants were required to elect one of the following groups of invention:

I. Claims 1-9, 16-21, 28, 62, 63, 65, and 67 in part and Claims 10-14 and 22-26 drawn to a method of inhibiting tumor growth with an antibody that binds to the vascular endothelial growth factor receptor (VEGFR) and an antibody that binds to the epidermal growth factor receptor (EGFR), classified in class 424, subclass 1431;

II. Claims 1-9, 16-21, 28, 62, 63, 66, and 67 in part and Claims 15 and 22-26 drawn to a method of inhibiting tumor growth with a small molecule that binds to the VEGFR and an antibody that binds to the EGFR, classified in class 514, subclass 44;

III. Claims 1-9, 16-21, 28, 62, 64, 65, and 67 in part and Claims 10-14 and 27 drawn to a method of inhibiting tumor growth with an antibody that binds to the VEGFR and a small molecule that binds to the EGFR, classified in class 424, subclass 133.1;

IV. Claims 1-9, 16-21, 28, 62, 64, 66, and 67 in part and Claims 15 and 27 drawn to a method of inhibiting tumor growth with a small molecule that binds to the VEGFR and a small molecule that binds to the EGFR, classified in class 514, subclass 53;

V. Claims 29-37 and 44 in part and Claims 38-42 drawn to a method of inhibiting tumor growth with an antibody that binds to the VEGFR and radiation, classified in class 424, subclass 130.1;

VI. Claims 29-37 and 44in part and Claim 43 drawn to a method of inhibiting tumor growth with a small molecule that binds to the VEGFR and radiation, classified in class 514, subclass 54;

VII Claims 45-53, 60, and 61 in part and Claims 45 and 54-58 inhibiting tumor growth with an antibody that binds to the VEGFR and a chemotherapeutic agent, classified in class 424, subclass 138.1;

VIII Claims 45-53, 60, and 61 in part and Claims 45 and 59 drawn to a method of inhibiting tumor growth with a small molecule that binds to the VEGFR and a chemotherapeutic agent, classified in class 514, subclass 61.

In response to the requirement for restriction, Applicants elect, with traverse, to prosecute the subject matter of Group I, Claims 1-9, 16-21, 28, 62, 63, 65, and 67 in part and

Claims 10-14 and 22-26 drawn to a method of inhibiting tumor growth with an antibody that binds to the vascular endothelial growth factor receptor (VEGFR) and an antibody that binds to the epidermal growth factor receptor (EGFR). As such, Applicants have withdrawn claims directed to non-elected subject matter (Claims 15, 27, 29-61, 64, and 66), and reserve the right to file a divisional application directed to the non-elected subject matter.

This election is made with traverse because the restriction requirement is improper. The Office Action sets forth that the Examiner considers the claims of Groups I to VIII as patentably distinct from one another. A proper restriction requires satisfaction of two separate criteria: the invention must be independent or distinct as claimed; and there must be a serious burden on the examiner if restriction is required (see MPEP §§ 802-03, 806, 808). Thus, if the subject matter of the pending claims is such that there would be no serious burden on the examiner to search and examine all of the pending claims at the same time, the examiner is to do so, *even if* the pending claims are drawn to independent or distinct inventions. However, the Office has shown neither independence nor distinctness of the subject matter of the pending claims, nor a serious burden without restriction.

Applicants submit that the claims of Groups I-VIII are sufficiently related to be properly presented in a single invention. The presently claimed invention is directed to reduction or inhibition of tumor growth by administering to a mammal a VEGFR antagonist in combination with an agent that inhibits or prevents tumor growth. A VEGFR antagonist, in the context of the present invention, is any substance that inhibits and/or disrupts one or more of the activities normally associated with VEGF stimulation. (*See* Specification at 17, ¶ 81.) Accordingly, the VEGFR antagonists of the present claims inhibit the tyrosine kinase activity of the receptor, which prevents autophosphorylation of the receptor and phosphorylation of various other proteins involved in the VEGFR signaling pathways. (*Id.*) Examples of VEGFR antagonists include biological molecules, such as antibodies, *Id.* at 12, ¶ 58), and small molecules (*Id.* at 11, ¶ 53; 17, ¶ 81).

The subject matter of Groups I-VIII is not sufficiently independent or distinct to warrant separate applications and the restriction is therefore improper. The methods of Groups I-VIII are all related to reduction or inhibition of tumor growth using a VEGFR antagonist in combination with an agent that inhibits or prevents tumor growth. Given the commonality of the subject matter here, examination of all the claims does not place a serious burden upon the Examiner, and Applicants urge the Examiner to rejoin the claims of Group I-VIII for examination as a single group. At the least, claims directed to combination treatment with an EGFR antagonist (Groups I-IV) should be examined together, claims directed to combination treatment with radiation (Groups V-VI) should be examined together, and claims directed to combination treatment with a chemotherapeutic agent (Groups VII-VIII) should be examined together.

Moreover, Applicants disagree with the Examiner's assertion that the claims are presented in improper format. As discussed previously, the claims are directed to methods of inhibiting tumor growth by administering a VEGFR antagonist in combination with an agent that inhibits or prevents tumor growth. These claims encompass antagonists to a single target, thus clearly defining a class of molecules with a discrete mechanism of action.

Applicants believe that the present application is in condition for allowance and respectfully request that a timely Notice of Allowance be issued in this case. If, in the opinion of the Examiner, a telephone conference would expedite prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

The Office is authorized to charge any fees that may be necessary for consideration of this paper to Kenyon & Kenyon Deposit Account No. 11-0600.

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Respectfully submitted,

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